



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R07-OAR-2014-0118; FRL-9907-77-Region 7]**

**Approval and Promulgation of Implementation Plans; State of Iowa**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP) for the State of Iowa. These revisions will amend the SIP to include revisions to Iowa air quality rule, Chapter 33, "Special Regulations and Construction Permit Requirements for Major Stationary Sources - Prevention of Significant Deterioration (PSD) of Air Quality." This rule amendment makes the state regulation consistent with the Federal regulation for the fine Particulate Matter (PM<sub>2.5</sub>) PSD program. This revision will amend source obligation provisions as they apply to recordkeeping and will provide a mechanism to allow industry to request rescission of a PSD permit, both of which match the Federal regulations. This action is also consistent with the state's request to not include, into the SIP, provisions relating to Significant Impact Levels (SILs) and Significant Monitoring Concentrations (SMCs). These

provisions were vacated and remanded by the U.S. Court of Appeals for the District of Columbia on January 22, 2013.

**DATES:** This direct final rule will be effective [**FEDERAL REGISTER** OFFICE: insert date 60 days from date of publication in the **Federal Register**], without further notice, unless EPA receives adverse comment by [**FEDERAL REGISTER** OFFICE: insert date 30 days from date of publication in the **Federal Register**].

If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2014-0118, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.
2. Email: [Algoe-eakin.amy@epa.gov](mailto:Algoe-eakin.amy@epa.gov)
3. Mail or Hand Delivery: Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

*Instructions:* Direct your comments to Docket ID No. EPA-R07-OAR-2014-0118. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information

(CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or email information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket

materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m. to 4:30 p.m. excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7942, or by email at [Algoe-eakin.amy@epa.gov](mailto:Algoe-eakin.amy@epa.gov)

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. What is Being Addressed in this Document?
- II. Have the Requirements for Approval of a SIP Revision Been Met?
- III. What Action is EPA Taking?

**I. What is Being Addressed in this Document?**

EPA is approving revisions into the SIP to include amendments to the Iowa air quality rules as they apply to Prevention of Significant Deterioration (PSD) of Air Quality.

The rules are amended to correspond with the Federal regulation for implementation of the PM<sub>2.5</sub> PSD program as identified in 40 CFR 52.21.

The following definitions are revised to match the Federal regulation: baseline area; baseline date; enforceable permit condition; Federally enforceable; regulated New Source Review (NSR) pollutant, and significant.

Revisions adopted by reference include ambient air increments that include thresholds for PM<sub>2.5</sub>, PSD exemptions to incorporate PM<sub>2.5</sub>, source impact analysis requirements to include PM<sub>2.5</sub>, and requirements for sources that impact Federal Class I areas to include PM<sub>2.5</sub>. Source obligation provisions are revised to match current Federal PSD regulations. This revision also clarifies the conditions whereby source owners and operators must keep records and the specific records that must be kept. For the purposes of record keeping, the Federal definition of "reasonable possibility" has been added. A rule has been added to establish provisions for rescinding a PSD permit and is commensurate with the Federal provisions.

This action is also consistent with the state's request to not include the SIP provisions relating to Significant Impact Levels and Significant Monitoring Concentrations. On January 22, 2013, the U.S Court of Appeals for the District of Columbia

vacated and remanded the provisions at 40 CFR 51.166(k)(2) and 52.21(k)(2) concerning implementation of the PM<sub>2.5</sub> SILs and vacated the provisions at 40 CFR 51.166(i)(5)(i)(c) and 52.21(i)(5)(i)(c) (adding the PM<sub>2.5</sub> SMC) that were promulgated as part of the October 20, 2010 rule, "Prevention of Significant Deterioration (PSD) for Particulate Matter less than 2.5 Micrometers (PM<sub>2.5</sub>) - Increments, Significant Impact Levels and Significant Monitoring Concentrations," 75 FR 64864. .

## **II. Have the Requirements for Approval of a SIP Revision Been Met?**

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. The revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

## **III. What Action is EPA Taking?**

EPA is approving the state's request to revise the SIP to include amendments to the Iowa air quality rules as they apply to PSD of Air Quality. The rule is amended to correspond with the final Federal regulation necessary for PM<sub>2.5</sub> implementation for the PSD program. This revision also revises source obligation provisions as they apply to recordkeeping, and provides a mechanism to allow industry to request rescission of

a PSD permit, both of which will match federal regulations. Per the state's July 23, 2013 request, EPA is not including provisions of the 2010 PM<sub>2.5</sub> PSD-Increments, SILs and SMCs rule (75 FR 64865, October 20, 2010) relating to SILs and SMCs that were affected by the January 22, 2013 U.S. Court of Appeals decision into SIP.

We are processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

#### **Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and



- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major

rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [**FEDERAL REGISTER** OFFICE: insert date 60 days from date of publication of this document in the **Federal Register**]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Air Quality, Prevention of significant deterioration, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 28, 2014

Karl Brooks,  
Regional Administrator,  
Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart Q - Iowa

2. Section 52.820(c) is amended by revising in the table, under Chapter 33, the entry for 567-33.3 to read as follows:

**52.820 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

EPA-Approved Iowa Regulations

Iowa Citation	Title	State Effective Date	EPA approval date	Explanation
<b>Iowa Department of Natural Resources Environmental Protection Commission [567]</b>				
* * * * *				
<b>Chapter 33 - Special Regulations and Construction Permit Requirements for Major Stationary Sources - Prevention of Significant Deterioration (PSD) of Air Quality</b>				
* * * * *				
567-33.3	Special construction permit requirement for major stationary sources in areas designated attainment or unclassified (PSD).	9/12/12	[ <b>FEDERAL REGISTER</b> OFFICE insert date of FR publication and insert FR page number where the document begins]	Provisions of the 2010 PM <sub>2.5</sub> PSD-Increments, SILs and SMCs rule (75 FR 64865, October 20, 2010) relating to SILs and SMCs that were affected by the January

				<p>22, 2013 U.S. Court of Appeals decision are not SIP approved.</p> <p>In addition, we have not approved Iowa's rule incorporating EPA's 2007 revision of the definition of "chemical processing plants" (the "Ethanol Rule," 72 FR 24060 (May 1, 2007) or EPA's 2008 "fugitive emissions rule," 73 FR 77882 (December 19, 2008)).</p>
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Date: 03/14/2014]